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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,862	12/21/2001	David William Koenig	659/915	4028

7590 10/06/2004
Glen P. Belvis
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

EXAMINER

ABBOTT, YVONNE RENEE

ART UNIT PAPER NUMBER

3644

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,862

Applicant(s)

KOENIG ET AL.

Examiner

Yvonne R. Abbott

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments filed 7/15/04 have been fully considered but they are not persuasive. The Marino ('960) reference teaches a device for dispensing both moist and dry wipes. With regard to the claimed limitations of instructing a user to wipe a certain number of times, and using selected sequences and combinations, as was addressed in the previous Action, such limitations are considered to be obvious in view of it being well known to print instructions on cleaning wipes. Additionally, the number of times one uses the wipe, retrieves a fresh wipe, the ratio or combination of wet and dry wipes are considered obvious depending on the area to be cleaned (i.e. more wipes or a combination of wet and dry may be required for tougher stain/soil/dirt removal). Furthermore, having owned pets for several years, this Examiner takes Official Notice of having used both wet and dry wipes/cloths to remove soil from the pets where repeated (at least three) wiping was necessary to clean the desired area; this practice is generally known to one skilled in the art. Instructions pertaining to obvious, well known, necessary and widely practiced tasks yielding expected results are not considered to be novel. For example, in a method of cooking which instructs one to stir a mixture twice to prevent clumping or sticking (undesirable characteristics), is not novel. With respect to Applicant's argument that Marino teaches away from instructions directed to specific sequences and or combinations of fresh products, Marino states (col. 1, lines 59-60):

"...use can be attained from users who prefer dry
tissue **and** who prefer moist tissue"

which, contrary to Applicant's conclusion, suggests that both wet and dry tissue can be used together as opposed to one being used **instead of** the other. As to Applicant's arguments pertaining to the claimed "fresh products", the Marino invention dispenses unused wipes from a roll which is considered to fall within Applicant's definition of fresh. With respect to Applicant's argument regarding the product identifiers of claims 11, 22 and 34, as noted in the passage cited by Applicant (Remarks, p. 3), the dry fresh product of Marino is identified as dry tissue, and the wet fresh product of Marino is identified as moist tissue, both identifiers having the term tissue in common. Therefore, it is maintained that it would have been obvious to use the Marino dispenser in the manner claimed, since the standard of obviousness is based on knowledge that is generally available to one skilled in the art.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,950,960, issued to Marino. Marino clearly teaches an apparatus capable of being sold to the public and further comprising a first and second housing so as to

house moist wipes (note col. 3, lines 1-35) and specifically a dry roll of tissue/toilet paper (note col. 1, lines 30-60) intended for use on a human body surface (as inferred throughout the patent). The reference however fails to teach: "instructing a user to wipe an animal body/human skin surface with a fresh product at least three times"; nor does the reference teach instructing the user to wipe with either of the products (wet wipes or dry tissue/toilet paper) at selected intervals and combinations (i.e., "wipe the surface with a dry product, followed by wiping the surface with a dry product, followed by wiping the surface with a wet product"...); nor does the reference teach a plurality of wet wipes or toilet tissue. With regard to the plurality of pads or "the first number of portions is double the second number of portions", it would have been obvious to one having ordinary skill in the art at the time the invention was made to have supplied the device of Marino with as many wet wipes and toilet tissue paper as so desired and, which would further keep the device adequately supplied, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co., v. Bemis Co.*, 193 USPQ 8. Concerning the limitation of instructing a user and having instructions printed on a package of wipes, the Examiner takes Official Notice as to the well known implement of instructional data associated with devices for sale, so as to better inform a user as to the intended operation of a device by a manufacturer.

Conclusion

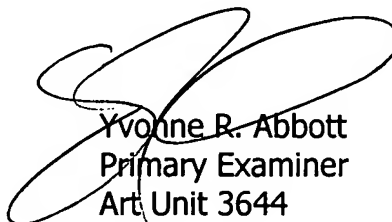
4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (703)308-2866. The examiner can normally be reached on Mon-Thurs 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (703)305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott
Primary Examiner
Art Unit 3644

9/28/04